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OFNER S.N. 09/889,895

wherein the optical elements are adjustable and are provided in the beam paths of the vision aid for changing an angle between the beam paths which run out of the lens systems towards the object and are arranged to be tiltable.-

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CANCEL claim 3. ✓

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4. (amended) Vision aid as claimed in claim 2, wherein the optical elements are movable along curved paths.~

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53. (amended) Vision aid as claimed in claim 52, wherein on the receiving unit of the autofocussing means, there is a device that is transparent solely to infrared signals which have been reflected by the object field.~

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#### REMARKS

The specification has been amended to make editorial changes to place the application in condition for allowance at the time of the next Official Action.

New formal drawings are submitted for Figures 8-11 to address the Notice of Draftsperson's Patent Drawing Review (PTO-948) that accompanied the Official Action.

Claims 1-61 were previously pending in the application. Claims 6-61 were withdrawn as being directed to a non-elected species. Claims 3 and 5 are canceled. ✓

Therefore, claims 1, 2, and 4 are presented for consideration.

Claim 1 is amended to address the claim objections and 35 USC §112, second paragraph rejections noted in the Official Action.

Claim 1 is rejected as unpatentable over HAAKSMAN 5,374,820 in view of Austrian Patent Publication No. AT 000307 U1 (hereinafter AT-307). This rejection is respectfully traversed.

Claim 1 is amended to include the subject matter of claim 4.<sup>5</sup> Since HAAKSMAN in view of AT-307 was not applied against claim 4,<sup>5</sup> applicant believes that claim 1 as amended is believed patentable over HAAKSMAN in view of AT-307.

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In addition, the characterization of HAAKSMAN noted in the Official Action appears to be inaccurate. Specifically, the Official Action has indicated Figure 5 of HAAKSMAN as an adjustment of optical elements. As taught at column 5, lines 32-41 of HAAKSMAN, objects V1 and V2 are different objects, one being a remote object and the other being a near object. As disclosed at column 6, lines 37-50, the lens system 11, 12 moves together with the eyeball 31 so that the angle between the beam paths and the object is constant. Accordingly, HAAKSMAN teaches a different angle for different objects and a constant angle for a single object.

Claims 2-4 are rejected as unpatentable over

HAAKSMAN in view of AT-307 and further in view of KATO et al. 6,134,048. This rejection is respectfully traversed.

As noted in the Official Action, HAAKSMAN in view of AT-307 does not disclose that the optical elements can be moved along curved paths. The Official Action offers KATO et al. to provide this teaching, stating that Figures 4A and 4B of KATO et al. teach a curved path.

However, column 5, lines 35-51 of KATO et al. teach laterally extending grooves 31 and 32 provided in the upper parts of the objective barrels 21 and 22. Pins 25 and 26 are used to guide optical systems 1 and 2 along laterally extending grooves 31 and 32 so that objective optical systems 1 and 2 can be moved in the direction perpendicular to optical axes 29 and 30. Cam grooves 27 and 28 are also provided which allow movement parallel to the optical axes 29 and 30 in the range of object distances from infinite to 5 meters and are able to move at an angle with optical axes 29 and 30 in the range of object distances from 5 meters to the closest possible distance of 0.8 meters. According to the pin and groove system of KATO et al., the optical elements 1 and 2 will always be perpendicular to the optical axes 29 and 30.

As seen in Figure 1 of the present application, optical elements 11 are movable along the curved paths 12, such that the angle 13 between the beam paths 14 changes as the optical elements are moved along the curved paths 12.

In addition, claims 2-4 depend from claim 1 and further define the invention. Claim 1 is amended to

include the features of claim 5. Neither HAAKSMAN in view of AT-307, nor KATO et al. were applied against claim 5. Accordingly, the combination of references do not render obvious claims 2-4.

Claims 4 and 5 were rejected as unpatentable over HAAKSMAN in view of AT-307 and further in view of EASTCOTT 5,592,331. This rejection is respectfully traversed.

As noted above, HAAKSMAN in view of AT-307 do not teach or suggest adjustable optical elements and beam paths of a vision aid wherein the optical elements are provided in the beam paths of the vision aid for changing an angle between the beam paths which run out of the lens system towards the object, as recited in claim 1.

EASTCOTT is only cited for the teaching of a tiltable element. EASTCOTT does not disclose or suggest adjustable optical elements and beam paths of a vision aid wherein the optical elements are provided in the beam paths of the vision aid for changing an angle between the beam paths which run out of the lens system towards the object. The above-noted feature is missing from each of the references, is absent from the combination, and thus is not obvious to one having ordinary skill in the art.

In addition, MPEP §2143 states that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claimed limitations.

The teaching or suggestion to make the claimed combination and reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.

*In re Vaeck*, 947 F2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991).

As disclosed at column 1, lines 14-23 of EASTCOTT, optical instruments such as photographic cameras and video cameras produce images on an image plane. Column 1, line 55 through 61 of EASTCOTT further teaches that the sharpness of focus is dependent on the distance the object is from the plane of focus. Accordingly, EASTCOTT teaches a monocular lens system that is used to control the plane along which the depth of field is defined.

The tilt swing mechanism of EASTCOTT is a well known mechanism used in press or view cameras with a single optical axis. EASTCOTT does not teach or suggest that a tilt swing mechanism could be used for telescopic spectacles with two lens systems each having an optical axis and adjustable optical elements in the beam paths wherein the optical elements are provided in the beam paths of vision aid for changing an angle between the beam paths wherein the optical elements are arranged to be tiltable, as recited in claim 1 of the present application. Accordingly, there is no reasonable expectation that a tiltable mechanism of a monocular lens system as taught by EASTCOTT would function in a binocular system of HAAKSMAN in view of AT-307.

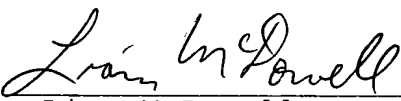
Accordingly, the combination of references proposed in the Official Action neither teaches nor suggests all the claim limitations, nor provides reasonable expectation of success, as required to establish a *prima facie* case of obviousness. Therefore, reconsideration and withdrawal of the rejection are respectfully requested.

In the election of species requirement of October 21, 2002, claim 1 is indicated as being generic. Since claim 1 is indicated as being generic and is believed allowable, reconsideration and allowance of claims 6-61 are respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

IN THE SPECIFICATION:

Page 1, the first paragraph was amended as follows:

--The invention relates to a vision aid [with the features of the introductory part of claim 1] with an autofocussing means, with a means for changing the focal length and with a means for matching the parallax between the tubes of the vision aid to the respectively set focal length.--

Page 4, lines 17 and 18 were deleted as follows:

[Preferred and advantageous embodiments of the vision aid as claimed in the invention are the subject matter of the dependent claims.]

Page 19, the last paragraph bridging pages 19 and 20, was amended as follows:

--In particular, in surgeries, for example surgeries on the human brain, in which the surgeon cannot directly view the surgical field, but only via contrivances, infrared-controlled devices are used to track the location of the instruments relative to the patients and to display it on a monitor. These devices (infrared tracking means) have proven themselves extraordinarily well. When a vision aid as claimed in the invention is used at the same time with one such infrared tracking means, there is the

danger that infrared light emitted from the infrared tracking means will adversely affect the autofocussing means of the vision aid which is likewise infrared-controlled. To take remedial action, in the vision aid as claimed in the invention parts can be assigned to the autofocussing means to prevent the incidence of outside light or scattered light, especially light from infrared tracking means 60. This was explained in principle further above using Figures 7, 7a and 7b. Also when using the vision aid as claimed in the invention in the area of industry the infrared portion of daylight can also be disruptive. In order to prevent disruptive infrared light from adversely affecting the autofocussing means 4 of the vision aid as claimed in the invention, in one embodiment of the invention according to the vision aid measures are taken which prevent the incidence of disruptive infrared light which can originate from infrared tracking means [6] 60 and/or by daylight.--

IN THE CLAIMS:

The claims were amended as follows:

--1. (amended) Vision aid in the form of telescopic spectacles with two lens systems, which each comprise:

optical elements comprising at least one objective lens [(70)] and one eyepiece [(71)],

[with] an autofocussing means which changes the focal length [for sharp focussing of] in order to adjust the

lens systems according to [the] a distance of the telescopic [spectacle] spectacles from [the] an object, [with]

a means for changing [the] a magnification factor of the lens systems [{"zoom"}] and with], and

a means for matching [the parallax] parallaxes between the lens systems of the vision aid to the focal length which has been set according to the distance of the telescopic spectacles from the object, [there being]

[adjustable optical elements in the beam path of the vision aid,]

[characterized in that] wherein the optical elements are adjustable and are provided in the beam paths of the vision aid for changing [the] an angle [{"(13)"}] between the beam paths [{"(14)"}] running from which run out of the lens systems [{"(1)"}] to] towards the object [can be changed using adjustable optical elements (11) which are located in the beam path of the vision aid] and are arranged to be tiltable.-

--4. (amended) Vision aid as claimed in claim 2, wherein the optical elements [{"(11)"}] can be moved] are movable along curved paths [{"(12)"}].--

--53. (amended) Vision aid as claimed in claim 52, wherein [the] on the receiving unit of the autofocussing means, there is a device [{"(45, 46, 47)"}] that is transparent solely to infrared signals [{"(44)"}] which have been reflected by the object field [{"(30)"}].--